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Message Text

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C O N F I D E N T I A L STATE 193322

EXDIS

FOLLOWING SAIGON 16815 SENT ACTION STATE INFO JEC PARIS
RPT TO YOU QUOTE

C O N F I D E N T I A L SAIGON 16815

EXDIS

C O R R E C T E D C O P Y (TEXT)

E.O. 11652: GDS
TAGS: PFOR, VS
SUBJECT: GVN NOTE TO PARTICIPANTS IN PARIS CONFERENCE ON VISIT OF
PRC SHIP TO DONG HA

REF: SAIGON 16518

1. FOLLOWING IS TEXT OF SUBJECT NOTE HANDED TO US SEPTEMBER 21.
ORIGINAL BEING POUCHED.

2 BEGIN TEXT: THE MINISTER OF FOREIGN AFFAIRS OF THE
REPUBLIC OF VIET-NAM PRESENTS HIS COMPLIMENTS TO
THE PARTIES TO THE ACT OF THE INTERNATIONAL
CONFERENCE ON VIET-NAM SIGNED IN PARIS ON 2ND MARCH
1973, AND HAS THE HONOUR TO DRAW THE ATTENTION
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OF THE PARTIES TO THE FOLLOWING.

2. ON 1ST SEPTEMBER 1973, A VESSEL OF THE
PEOPLE'S REPUBLIC OF CHINA, BEARING THE NAME OF

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"RED FLAG" AND IDENTIFICATION NUMBER 1018, HAS
VIOLATED THE TERRITORY OF THE REPUBLIC OF VIET-NAM
BY ENTERING THE CUA VIET ESTUARY AND UNLOADING A
LARGE QUANTITY OF MATERIAL, SOUTH OF THE DEMILITARIZED
ZONE. THE NEW CHINA NEWS AGENCY ACKNOWLEDGED THE
VISIT OF THE VESSEL "RED FLAG" IN ITS BROADCAST
OF 4TH SEPTEMBER AND THE REPRESENTATIVE OF THE
COMMUNIST SIDE AT THE TWO-PARTY JOINT MILITARY
COMMISSION IN SAIGON ON 7TH SEPTEMBER ALSO CONFIRMED
THE PRESENCE OF THE SAID VESSEL IN THE DONG HA AREA.

3. IT IS PART OF THE LAW OF NATIONS THAT WHEN
A VESSEL OF ONE COUNTRY ENTERS THE WATERS OF ANOTHER,
IT HAS TO SUBJECT ITSELF TO THE LAW OF THE LATTER.
THE VESSEL "RED FLAG" HAS FAILED TO DO SO, AND THUS
HAS DELIBERATELY VIOLATED THE TERRITORIAL WATERS
OF THE REPUBLIC OF VIET-NAM.

4. THE PEOPLE'S REPUBLIC OF CHINA MIGHT AGRUE
THAT IT HAS FORMALLY RECOGNISED THE SELF-STYLED
"PRG", BUT THE WEAKNESS OF THIS LINE OF ARGUMENT
IS THAT NO PROVISION LAID DOWN BY THE PARIS AGREEMENT
STIPULATED THAT THERE EXISTS A TERRITORY OF THE
SO-CALLED "PRG". ON THE OTHER HAND, THERE EXISTS A
SITUATION IN WHICH THE WHOLE AREA OF DONG HA, GIO LINH
AND CUA VIET IS BEING ILLEGALLY OCCUPIED BY UNITS
OF THE NORTH VIETNAMESE ARMY, SUCH AS THE 304TH,
325TH, 308TH, 312TH, AND 344TH-B DIVISIONS. THE
MILITARY OCCUPATION BY A BELLIGERENT ENEMY OF THE
REPUBLIC OF VIET-NAM DOES NOT TRANSFER SOVEREIGNTY
OVER THE OCCUPIED TERRITORY TO THIS ENEMY, IN THE
LEAST TO ITS ANCILLARY ORGANIZATIONS.

FURTHERMORE, THE PEOPLE'S REPUBLIC OF CHINA'S
ACTION BY CONFERRING ON THE SO-CALLED "PRG" THE
STATUS OF A GOVERNMENT ACTUALLY CONSTITUTES AN
INTERVENTION IN MATTERS WHICH ARE WITHIN THE INTERNAL
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JURISDICTION OF THE REPUBLIC OF VIET-NAM, AND IS
THEREFORE UNACCEPTABLE. THE GOVERNMENT OF THE REPUBLIC
OF VIET-NAM WISHES TO REGISTER ITS STRONG PROTEST
AGAINST THE PEOPLE'S REPUBLIC OF CHINA'S VIOLATION OF
A COMMONLY ACCEPTED RULE OF INTERNATIONAL LAW.

5. AS THE MATTER INVOLVES A FUNDAMENTAL ISSUE,
THE GOVERNMENT OF THE REPUBLIC OF VIET-NAM CONSIDERS
IT DESIRABLE TO PLACE ON RECORD THE FOLLOWING COMMENTS.

IN THE VIEW OF THE REPUBLIC OF VIET-NAM, THE
GENEVA AGREEMENT OF JULY 1954 STILL REMAINS IN FULL
FORCE, SINCE IT HAS NOT BEEN FORMALLY ANNULLED,

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ABROGATED, TERMINATED OR DENOUNCED BY ANY OF THE CONTRACTING PARTIES. FURTHERMORE, IT HAS BEEN SPECIFICALLY REFERRED TO IN ARTICLES 1 AND 15 OF THE PARIS AGREEMENT OF 28TH JANUARY 1973. THE JURIDICAL CONSEQUENCE IS THAT PENDING THE HOLDING OF GENERAL ELECTIONS FOR THE REUNIFICATION OF VIET-NAM, THERE EXIST ONLY TWO SOVEREIGN STATES OF VIET-NAM, NAMELY THE REPUBLIC OF VIET-NAM AND THE DEMOCRATIC REPUBLIC OF VIET-NAM. THERE COULD BE NO OTHER STATE, NO OTHER GOVERNMENT.

IT IS ALSO DOUBTLESS TRUE THAT THE SELF-STYLED "PRG" CANNOT BY ANY MENAS BE REGARDED AS A SOVEREIGN STATE, IN THE INTERNATIONAL SENSE, SINCE IT LACKS ALL REQUIRED QUALIFICATIONS-SUCH AS A PERMANENT POPULATION AND A DEFINED TERRITORY. AS A POLITICAL ENTITY, IT IS A WELL ESTABLISHED FACT THAT THE SO-CALLED "PRG" IS BUT A FRONT ORGANIZATION OF THE DEMOCRATIC REPUBLIC OF VIET-NAM, WITH ITS AUTHORITY SEVERELY LIMITED. FOR ALL PRACTICAL PURPOSES, THE SO-CALLED "PRG" REMAINS A NON-EXISTENT GOVERNMENT.

THE PARTIES TO THE INTERNATIONAL CONFERENCE ON VIET-NAM MAY ALSO WANT TO TAKE INTO CONSIDERATION ARTICLE 9(B) OF THE PARIS AGREEMENT OF 28TH JANUARY 1973 WHICH STIPULATES THAT THE SOUTH VIETNAMESE PEOPLE SHALL DECIDE THEMSELVES THE POLITICAL FUTURE OF SOUTH VIET-NAM THROUGH GENUINELY FREE AND ESMOCRATIC CONFIDENTIAL

GENERAL ELECTIONS. IT ENSUES THAT PENDING THESE GENERAL ELECTIONS, THE GOVERNMENT OF THE REPUBLIC OF VIET-NAM REMAINS THE SOLE LEGAL GOVERNMENT OF VIET-NAM, SOUTH OF THE SEVENTEENTH PARALLEL. TO RECOGNIZE A SO-CALLED "THIRD VIET-NAM" AT THIS JUNCTURE UNDOUBTLY CONSTITUTES A DIRECT VIOLATION OF ARTICLE 9(B) OF THE PARIS AGREEMENT.

SUCH AN ACT WOULD INEVITABLY AMOUNT TO AN IMPEDIMENT TO THE PROGTESS OF THE CONSULTATIONS BEING HELD BY THE TWO SOUTH VIETNAMESE PARTIES AT LA CELLE SAINT CLOUD.

6. NEITHER THE CUA VIET NOR THE DONG HA AREAS IS A POINT OF ENTRY INTO THE TEMPORARY TROOPS STATIONING ZONE OF THE COMMUNIST SIDE. THE FACT THAT SUPPLIES WERE BROUGHT BY THE VESSEL "RED FLAG" INTO SUCH A ZONE WITHOUT USING A DESIGNATED POINT OF ENTRY, AND WITHOUT THE PRESENCE OF THE TWO PARTY MILITARY COMMISSION AND THE SUPERVISION OF THE INTERNATIONAL COMMISSION OF CONTROL AND SUPERVISION IS A BLATANT VIOLATION OF ARTICLE 7 OF THE THE PARIS AGREEMENT AND

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ARTICLE 7 OF THE PROTOCOL ON CEASEFIRE.

IT IS REGRETTED THAT DUE TO THE FAILURE OF
THE SO-CALLED "PRG" TO NAME ITS POINTS OF ENTRY AND
THE TWO PARTY JOINT MILITARY COMMISSION TO ACTIVATE
INSPECTIONS, THE INTERNATIONAL COMMISSION OF CONTROL
AND SUPERVISION HAS BEEN SO FAR UNABLE TO CARRY
OUT THE INSPECTION OF REPLACEMENT MILITARY SUPPLIQES.
BUT VERY ACCURATE RECORDS ARE KEPT BY THE REPUBLIC
OF VIET-NAM ON ITS ONE-FOR-ONE REPLACEMENT OF ARMS
AND THESE RECORDS MAY BE INSPECTED BY THE INTERNATIONAL
COMMISSION OF CONTROL AND SUPERVISION AT ANY TIME.
THE REPUBLIC OF VIET-NAM BELIEVES THAT IT
WOULD BE AN APPROPRIATE AND USEFUL MEASURE IF THE
PARTIES COULD ASCERTAIN THAT COMPARABLE RECORDS ARE
EQUALLY KEPT BY THE SO-CALLED "PRG" AND THAT THEY
COULD BE INSPECTED BY THE INTERNATIONAL COMMISSION OF CONTROL
AND SUPERVISION AT ANY TIME.

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7. THERE IS REASON TO BELIEVE THAT THE MATERIALS
INVOLVED ARE WAR SUPPLIES DESTINED TO THE COMMUNIST
FORCES. THE PEOPLE'S REPUBLIC OF CHINA HAS THUS
CONTRIBUTED TO REINFORCE MILITARILY THE COMMUNIST
SIDE AND DELIBERATELY IGNORED THE SPIRIT OF THE ACT
OF THE INTERNATIONAL CONFERENCE, WHICH CLEARLY STATES
THE OBLIGATIONS OF THE PARTIES TO GUARANTEE THE ENDING
OF THE WAR AND THE MAINTENANCE OF PEACE IN VIET-NAM.
AS A SIGNATORY OF THE ACT, THE PEOPLE'S REPUBLIC OF
CHINA HAS REGRETTABLY SHOWN A CONTEMPT FOR HIS OWN
SIGNATURE AND FOR THE SIGNATURES OF ALL OTHER PARTICIPANTS
TO THE INTERNATIONAL CONFERENCE.

8. THE GOVERNMENT OF THE REPUBLIC OF VIET-NAM
WISHES TO REITERATE ITS DETERMINATION TO SERIOUSLY
IMPLEMENT ALL THE PROVISIONS OF THE PARIS AGREEMENT
AND ITS RELATED PROTOCOLS AS WELL AS THOSE OF THE ACT
OF INTERNATIONAL CONFERENCE ON VIET-NAM AND THE 13TH
JUNE 1973 JOINT COMMUNIQUE. SPECIFICALLY, IT WISHES
TO RECALL THAT IT DESIGNATED ITS POINTS OF ENTRY IN
FEBRUARY AND MAY 1973, AND ALL THESE POINTS OF ENTRY
HAVE BEEN PLACED UNDER ACTUAL SUPERVISION OF THE
INTERNATIONAL COMMISSION OF CONTROL AND SUPERVISION.
A FORMAL LETTER OF THE GOVERNMENT OF THE REPUBLIC OF
VIET-NAM TO THIS EFFECT WAS SENT TO THE INTERNATIONAL
COMMISSION OF CONTROL AND SUPERVISION ON 25TH MAY 1973.

FOR ITS PART, THE SO-CALLED "PRG" HAS REFUSED
TO COMMUNICATE THE NAMES OF ITS POINTS OF ENTRY TO
THE INTERNATIONAL COMMISSION OF CONTROL AND SUPERVISION;
IT ALSO FAILED TO DESIGNATE THREE ADDITIONAL POINTS

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OF ENTRY, AS STIPULATED BY ARTICLE 7(C) OF THE FINAL
COMMUNIQUE OF 13TH JUNE 1973.

IT FOLLOWS THAT URGENT MEASURES SHOULD BE
TAKEN TO PERSUADE THE SO-CALLED "PRG" TO IMMEDIATELY
COMPLY WITH ARTICLE 7 OF THE PARIS AGREEMENT, ARTICLE 7
OF THE CEASEFIRE PROTOCOL AND ARTICLE 7(C) OF THE
JOINT COMMUNIQUE OF 13TH JUNE 1973.

IN THE OPINION OF THE GOVERNMENT OF THE
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REPUBLIC OF VIET-NAM, THE SYSTEMATIC NON-OBSERVANCE
OF THE PARIS AGREEMENT AND TIS RELATED TEXTS BY THE
NORTH VIET-NAM AUTHORITIES AND THE SO-CALLED "PRG"
CONSITITUTES THE ROOT CAUSE OF THE VERY UNSATISFACTORY
SITUATION STILL PREVAILING IN VIET-NAM.

9. THE GOVERNMENT OF THE REPUBLIC OF VIET-NAM
HAS FORMALLY BROUGHT THE CASE OF THE VESSEL "RED FLAG"
TO THE ATTENTION OF THE INTERNATIONAL COMMISSION OF
CONTROL AND SUPERVISION WITH THE REQUEST THAT AN
ON-THE-SPOT INVESTIGATION BY CARRIED OUT IN THE
DONG HA AREA, TO DETERMINE THE QUANTITY AS WELL AS
THE NATURE OF SUPPLIES UNLOADED. IT IS SUGGESTED THAT
THE COMPLAINT OF THE REPUBLIC OF VIET-NAM SHOULD BE
DEALTH WITH EXPEDITIOUSLY.

10. FINALLY, THE GOVERNMENT OF THE REPUBLIC OF
VIETNAM WISHES TO BRING THE ATTENTION OF THE PARTIES
TO THE ACT OF THE INTERNATIONAL CONFERENCE TO THE FACT
THAT ON THE BASIS OF THE GENEVA AGREEMTNS OF 1954 AS
WELL AS REALITIES IN SOUTH VIET-NAM IS THE SOLE LEGAL GOVERNMENT
OF VIET-NAM, SOUTH OF THE DEMILITARISED ZONE, AND AS
A SOVEREIGN STATE IT HAS TO DISCHARGE CERTAIN DUTIES,
INCLUDING THAT OF PROTECTING ITS TERRITORY, ITS AIR
SPACE AS WELL AS ITS TERRITORIAL WATERS. IT FOLLOWS
THAT SHIPS OF ANY FOREIGN COUNTRY WHICH ENTER THE
TERRITORIAL WATERS OF THE REPUBLIC OF VIET-NAM HAVE
TO COMPLY WITH THE LAWS OF THE REPUBLIC OF VIET-NAM;
TO DO OTHERWISE IS TO INFRINGE UPON THE SOVEREIGNTY
OF AN INDEPENDENT STATE AND FLAGRANTLY VIOLATE ONE OF
THE FUNDAMENTAL PRINCIPLES OF INTERNATIONAL LAW.

IT ALSO FOLLOWS THAT THE GOVERNMENT OF THE
REPUBLIC OF VIET-NAM HAS TO RESERVE ITS RIGHT OT TAKE
APPROPRIATE MEASURES TO DEFEND ITS TERRITORY AGAINST
ANY SUCH INTRUSIONS.

11. AS THE ABOVE IS WITHIN THE NORMAL PRACTICE
OF THE LAW AMONG NATIONS, THE GOVERNMENT OF THE
REPUBLIC OF VIET-NAM PROPOSES THAT THE PARTIES TO THE

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CONSULT AMONG THEMSELVES IN ORDER TO PREVENT THE OCCURRENCE OF ANY FUTURE CASE SIMILAR TO THAT OF THE VESSEL "RED FLAG".

THE GOVERNMENT OF THE REPUBLIC OF VIET-NAM ALSO PROPOSES THAT THE PARTIES CONSULT TOGETHER AND DISCUSS THE MEASURES WHICH SHOULD BE TAKEN TO ENSURE THAT THI SO-CALLED "PRG" SHALL IMMEDIATELY DESIGNATE POINTS OF ENTRY AND COOPERATE WITH THE TWO-PARTY JOINT MILITARY COMMISSION AND THE INTERNATIONAL COMMISSION OF CONTROL AND SUPERVISION IN THE INSPECTION OF REPLACEMENT MILITARY SUPPLIES FOR BOTH SOUTH VIETNAMESE PARTIES.

12. THE MINISTER OF FOREIGN AFFAIRS OF THE REPUBLIC OF VIET-NAM AVAILS HIMSELF OF THIS OPPORTUNITY TO RENEW TO THE PARTIES TO THE ACT OF THE INTERNATIONAL CONFERENCE ON VIET-NAM, SIGNED IN PARIS ON 2ND MARCH 1973, THE ASSURANCE OF HIS HIGH CONSIDERATION.
APPLING UNQUOTE KISSINGER

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